

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Protecting Consumers from Unauthorized Carrier)	CG Docket No. 17-169
Changes and Related Unauthorized Charges)	
)	

COMMENTS OF BILLING SERVICES GROUP NORTH AMERICA, INC.

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Billing Services Group North America, Inc. (“BSG”) is pleased to submit the following comments in response to the above-referenced Notice of Proposed Rulemaking (“Notice”) in which the Federal Communications Commission (“the Commission”) seeks comment on additional steps to protect consumers from unauthorized carrier changes and charges.¹ BSG is the largest third-party billing aggregator in the United States and has provided services that benefit millions of third-party wireline telecommunications consumers for more than 20 years. As a billing aggregator, BSG enables third-party service providers to include their charges on the bills issued by a wide variety of service providers across several industries. In addition, BSG’s TPV business, VoiceLog, provides live-operator verification and call-recording services to these sectors, which include communications services, energy, and insurance and healthcare, as well as for merchant services and credit card processors. Thus, the changes proposed by the Notice would have a direct effect on BSG’s business.

BSG supports the Commission’s effort to thwart unauthorized carrier changes (referred to as “slams”) and unauthorized charges (referred to as “crams”) on consumer bills. However, BSG strongly opposes the proposal to eliminate or require certification of Third Party Verifications (“TPVs”), among others. As discussed below, VoiceLog functions solely to ensure that sales calls are properly verified. VoiceLog’s rigorous efforts have helped minimize disputes and fraud. Eliminating or even requiring certification of TPVs would hamper competition rather than prevent unauthorized carrier changes, and the Commission’s jurisdiction over TPVs is tenuous at best.

Finally, adopting certain additional proposals raised in the Notice would deprive consumers of meaningful choices and competition. Imposing either a default preferred carrier freeze or blocking

¹ See *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, Notice of Proposed Rulemaking, CG Docket No. 17-169, 32 FCC Rcd 6022 (2017) (“Notice”).

third-party billing would curtail consumer choice and the associated benefits rendered by a competitive marketplace.

I. VoiceLog, BSG's TPV Business, Functions Solely To Ensure That Sales Calls Are Properly Verified

Every day, thousands of consumers take advantage of wireline telecommunications service offerings from competitive providers. Consumers have come to know and rely on such providers as trusted resources for their telecommunications needs. This is especially the case for long-distance services. The prevalence of these competitive alternatives evinces consumer demand for better rates, better service, and/or increased convenience.

BSG is an industry leader that lawfully and effectively handles third-party verifications on behalf of some of the largest companies in the world. Between August 1, 2016 and July 31, 2017, BSG handled more than 2.7 million verifications. VoiceLog, BSG's TPV business, provides live-operator verification and call-recording services to a wide variety of sectors, including communications services, energy, and insurance and healthcare providers, as well as for merchant services and credit card processors.

In the case of communications services, we work closely with our customers to ensure that our verification scripts are compliant with the Commission's rules. VoiceLog's core function is to ensure that sales are properly verified.

Thus, the Commission's effort to initiate consideration of possible rules to govern unauthorized changes and charges has a direct bearing on BSG's business. Given our extensive experience, BSG welcomes the opportunity to help the Commission better understand how lawful TPV services significantly benefit consumers.

VoiceLog is independently owned, managed, controlled, and directed, and operates in a location physically separate from its clients. VoiceLog personnel are true independent third parties—with zero economic incentive to classify any sales call as properly verified.² Furthermore, VoiceLog agents are carefully screened and rigorously trained. VoiceLog agents are live humans that pick up a call after the sales portion has concluded. These agents, a number of whom speak Spanish,³ engage directly with consumers to verify a consumer's intention to purchase services by eliciting, at a minimum, the identity of the subscriber; confirmation that the person on the call is authorized to make the provider change; confirmation that the person on the call wants to make the change; the telephone numbers or accounts to be switched; and the types of service involved (*i.e.*, local, in-state toll, out-of-state toll, or international service).⁴

VoiceLog agents also receive detailed training to identify cases of potential fraud. When, after speaking with the prospective consumer, a VoiceLog agent suspects that the sales call is fraudulent, rather than mark the sales call as verified, the agent electronically flags the call immediately after the verification portion of the call ends. Right away, VoiceLog management receives notice of the fraudulent disposition code and takes quick action. On top of these stringent procedures, VoiceLog regularly conducts random secondary reviews, during which supervisors will listen in to a verification to double check the accuracy of the agent's determination.

Finally, a separate set of VoiceLog employees (not TPV agents) create and store recordings of all TPV calls. Our customers have the ability to retrieve recordings through a secure online portal. Likewise, the recordings are provided to proper authorities upon lawful request. No VoiceLog, BSG or

² See 47 CFR § 64.1120(c)(3).

³ See *id.* § 64.1120(c)(3)(iv)

⁴ See *id.* § 64.1120(c)(3)(iii).

any other personnel have either the physical or technical ability to splice or otherwise alter these recordings, nor does VoiceLog utilize robocalling.

In sum, communications service changes cannot be processed without independent verification that the consumer fully understands what he or she is purchasing, as well as the terms and conditions of such a purchase. Voice recordings that include verifications of the consumer's name, address, and phone number, combined with VoiceLog's rigorous due diligence and monitoring procedures, are an effective check against fraud.⁵

II. Eliminating Or Certifying TPVs Would Hamper Competition Rather Than Prevent Unauthorized Carrier Changes

The Notice proposes to eliminate or, as an alternative, to require certification of TPVs to purportedly curb deceptive sales calls. Neither option would prevent unauthorized carrier changes.

Eliminating TPVs would not prevent unauthorized carrier changes. As an initial matter, we note that the Commission's jurisdiction over TPVs is tenuous at best. Unlike straightforward rules and enforcement actions to prevent unauthorized changes and charges, which regulate the relationship between a carrier and its subscriber, a rule to eliminate TPVs (or mandating TPV certification) would regulate the relationship between a carrier and an independent third-party vendor. This is especially the case given the Commission's own actions to impose independence criteria under which third-party verification entities operate. In adopting these criteria, the Commission sought "to better ensure that

⁵ Between August 1, 2016 and July 31, 2017, BSG handled 2,720,928 TPV calls. Of these, 1,678 failed due to potential fraud, for reasons such as sales representatives misrepresenting themselves as the utility, coaching the customer on how to answer questions, or impersonating the customer or gender/voice mismatch between sales call and verification call).

the third party verification process is truly separate from both the carrier and the carrier's sales representative.”⁶

The Notice first reports that recent enforcement actions “reveal that a major source of slamming is deception in the sales calls.”⁷ But eliminating TPVs would neither address or resolve the problem of deceptive sales calls. As discussed above, BSG’s VoiceLog is an independent entity and its employees take care to properly validate consumer preferences. Given BSG’s exceptionally low error rate, these verification efforts effectively curtail unauthorized changes and charges. VoiceLog verification efforts do not include misrepresentations or involve altering verification recordings. VoiceLog’s agents are incentivized to properly verify calls and to identify potentially fraudulent sales. The solution proposed in the Notice does not address, let alone resolve, the problem of unauthorized changes and charges, and could undermine the most-effective means of verifying a consumer’s desire to switch providers.

Given the critical need to lawfully and independently verify long-distance service changes, action to eliminate TPVs would hamper consumer welfare. Eliminating TPVs would throw the baby out with the bathwater—legitimate TPVs could no longer fulfill the critical need to properly assess the validity of a consumer’s desire to change service providers. And Consumers would no longer benefit from innovative offerings, lower prices (including flat rates for budget-conscious consumers), and the convenience of receiving and paying one bill.

⁶ *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 at ¶ 33 (2000).

⁷ Notice at ¶ 12.

Furthermore, the Notice's proposal for consumer follow up—either online or by separately phoning a designated telephone number—is infeasible.⁸ Either procedure would pose a frustrating burden for a consumer that has already expressed a valid desire to change providers. In this situation, the consumer is ready to move ahead and complete the transaction. Imposing an unnecessary step would irritate the consumer, which in turn would effectively nullify the service provider's successful effort to convince the consumer to switch providers. Imposing this burden would cancel out a legitimate consumer choice and artificially constrain fair competition among carriers.

Carrier certification of TPVs is not necessary. The Notice alternatively proposes that carriers or the Commission ought to certify TPV providers.⁹ Setting aside the question of the Commission's jurisdiction over TPVs raised earlier, these proposals are impractical. First, carriers already undertake extensive due diligence well before considering a business relationship with a TPV provider. In effect, carriers certify a TPV by contracting with the TPV provider. Carriers have every incentive to identify and retain TPVs that operate lawfully. Carriers certify a TPV by reaching agreement to allow the TPV provider to validate sales calls.

Commission certification of TPVs would be impractical. As to Commission certification of TPVs, the agency currently has neither the expertise nor the resources to begin such an extensive undertaking. Setting aside the jurisdiction question again, implementing such a process and bringing the necessary expertise inside the agency would be costly and time-consuming. Moreover, the associated delay would constrain legitimate TPV providers from conducting business in the interim.

⁸ See Notice at ¶ 33.

⁹ See *id.* at ¶ 35.

III. **Adopting Certain Of The Notice’s Additional Proposals Would Likewise Deprive Consumers of Meaningful Benefits**

The Notice’s proposals to institute a preferred carrier freeze by default and to block third-party billing by default would only deprive consumers of the ability to freely choose a service provider rather than grant consumers more control to prevent slamming.

Imposing a preferred carrier freeze by default would restrain consumer choice. The Notice proposes to make freezes the automatic default “so that consumers are automatically afforded additional protection against slamming rather than requiring them to take extra steps to do so.”¹⁰ The Notice asserts that the “goals are to ensure that the default freeze is a strong safeguard against slamming while not unduly burdening consumers who may want to opt out of a freeze or giving executing carriers who may be losing the customer an opportunity to behave anti-competitively.”¹¹ Imposing a freeze by default, however, misses the mark. The proposal is drastic—going well beyond “a strong safeguard”—and thus cannot be reconciled with the twin goals of “not unduly burdening” consumers or enticing carriers “to behave anti-competitively.”¹²

Before altering the relationship between millions of consumers and competitive service providers, the Commission must first establish that such a burdensome and disruptive action is necessary. The Notice contains only fleeting references describing that cramming is a problem with respect to competitive providers.

Further, consumer protection is most effective when consumers are empowered to make their own decisions. Consumers deserve the ability to choose the best plan for their individual needs and budgets. Rather than empower consumers, a freeze is an outright constraint. Accordingly, adopting

¹⁰ Notice at ¶ 14.

¹¹ *Id.* at ¶ 15.

¹² *Id.*

the proposed preferred carrier freeze would artificially constrain competition. A freeze would erect an artificial barrier to entry for competitive carriers—and would therefore quash the associated consumer benefits.

If the Commission imposes such a freeze, individual consumers would be forced to directly contact their current provider even if they have an interest in merely exploring new plans from other providers, let alone if they have already made a choice to switch. Of course, this situation would afford the current provider a perfect opportunity to talk the consumer out of his or her choice. This scenario benefits only the current provider.

The consumer, on the other hand, would be hamstrung—and likely confused, frustrated, or both. Before changing providers, consumers would be forced to first call their current provider, and then successfully persuade their current provider of their desire to switch to a new service provider.

This burden would simply be too much given that most, if not all, telecommunications consumers expect instantaneous call connection. The vast majority would simply give up, missing out on the beneficial competitive services that they specifically sought.

Blocking third-party billing would curtail consumer choice. Citing third-party billing as “a frequent source of slamming-related cramming,”¹³ the Notice proposes to require wireline carriers to block third-party billing “by default, and only bill such charges if a consumer opts in.”¹⁴ Here again, the consumer-related harms raised in the proposal greatly outweigh any purported benefits. Yet the Notice states that “blocking such charges would be beneficial to consumers and reduce slamming and cramming significantly”¹⁵ without presenting any facts or even theories as to why.

¹³ *Id.* at ¶ 18.

¹⁴ *Id.* at ¶ 18.

¹⁵ *Id.* at ¶ 21.

Carriers must have the flexibility to choose whether to handle billing on their own, or to retain a billing aggregator. Billing aggregators allow carriers to provide competitive pricing and customized service offerings. Action to block third-party billing would constrain consumer choice and unfairly penalize lawful entities seeking to provide alternative telecommunications services.

Not only do consumers benefit from the convenience of having all wireline charges listed on a single bill, but third-party billing enables small service providers to maintain lower overhead costs and pass those savings on to consumers. If long-distance providers are forced to manage their own billing operations, they would be unable to offer favorable rates. In fact, the Commission confirmed the critical role third-party billing services play for many consumers in 2012, stating that legitimate third-party services provide important “consumer choice and benefits ... for consumers, carriers, and third parties.”¹⁶ The Commission also concluded that “third-party billing can be a convenience for carriers, third parties, and consumers.”¹⁷ Indeed, the Commission singled out long-distance as an important service often provided by third parties.¹⁸

Further, requiring consumers to opt-in to third-party billing is flawed in the same manner as a preferred carrier freeze because both requirements would force consumers to contact their existing provider before obtaining the services of competitive carriers. Requiring a consumer who wants to contract with a provider that utilizes third-party billing to contact his or her existing provider first would inject unnecessary time and inconvenience into the process of choosing communications providers. And the existing provider would have the opportunity to sway the consumer not to choose.

¹⁶ *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”)*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 11-116, 27 FCC Rcd 4436 at ¶ 90 (2012).

¹⁷ *Id.* at ¶ 41.

¹⁸ *See id.*

Such an outcome would limit consumer choice and competition, and could lead to consumers paying higher prices for communications services.

IV. Conclusion

BSG supports the Commission's desire to thwart unauthorized carrier changes and charges. The answer, however, is not eliminating TPVs or mandating TPV certification. These actions would hamper competition rather than prevent slamming and cramming. Moreover, the Commission's jurisdiction over TPVs is questionable. Likewise, imposing either a default preferred carrier freeze or blocking third-party billing would curtail consumer choice and the associated benefits rendered by a competitive marketplace.

Respectfully submitted,

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